



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2016-0002]

Notice of Proposed Buy America Waiver for a Radio Communications System

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of proposed Buy America waiver and request for comment.

SUMMARY: The Federal Transit Administration (FTA) received a request for a waiver to permit the use of FTA funding to purchase a radio communication system that is non-compliant with the Buy America requirements. The request is from the Kansas City Area Transportation Authority (KCATA). KCATA is in the process of updating its current analog system with a digital voice system, compatible with its operating system. KCATA also plans to enter into a tri-party agreement with the City of Kansas City, Missouri, and the Kansas City Streetcar Authority (KCSA) to install the radio system into the new streetcars. The new radio system will increase KCATA's systems capacity and allow KCSA to have a dedicated talk group on KCATA's system. In accordance with 49 U.S.C. 5323(j)(3)(A), FTA is providing notice of the waiver request and seeks public comment before deciding whether to grant the request. If granted, the waiver only would apply to a one-time FTA-funded procurement by KCATA.

DATES: Comments must be received by [INSERT DATE, 7 DAYS AFTER PUBLICATION].

Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FTA-2016-0002:

1. Web site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the U.S. Government electronic docket site.
2. Fax: (202) 493-2251.
3. Mail: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M-30, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
4. Hand Delivery: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M-30, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the “Federal Transit Administration” and include docket number FTA-2016-0002. Due to the security procedures in effect since October 2011, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to <http://www.regulations.gov>. For more information, you may review DOT’s complete Privacy Act Statement in the Federal Register published April 11, 2000 (65 FR 19477), or you may visit <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Laura Ames, FTA Attorney-Advisor, at (202) 366-2743 or laura.ames@dot.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to provide notice and seek comment on whether the FTA should grant a non-availability waiver for KCATA’s purchase of a new radio communication system. The new radio system will replace KCATA’s

analog system, increase its systems capacity and allow KCSA to have a dedicated talk group on KCATA's system.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) all of the manufacturing processes for the product take place in the United States; and (2) all of the components of the product are of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that "the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality," then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

KCATA is a provider for public transportation services for Kansas City, Missouri. KCATA provides service to the entire Kansas City metropolitan area, operating in seven counties. KCATA's current radio system was purchased in 2002 and fully activated in 2005. The radio system is analog and operates on two separate channels. It has limited growth capabilities, issues with "talk over," inaccessible voice connections, and after ten (10) years the maintenance costs are rising. KCATA is in the process of upgrading its radio system.

As part of its plan to upgrade the radio system, KCATA issued a Request for Proposals (RFP) seeking a "turnkey project that includes a DMR Tier III Trunked UHF Voice radio system, full integration of the radio system with the Trapeze TransitMaster CAD/AVL system, and extended maintenance and support." KCATA only received one response to the RFP. Tait

North America (“Tait”) expressed interest in the project but noted that it is headquartered in New Zealand and that a majority of the products would be assembled in New Zealand, making them non-compliant with Buy America. Under 49 CFR 661.7(c)(1), “It will be presumed that the conditions exist to grant this non-availability waiver if no responsive and responsible bid is received offering an item produced in the United States.” Since receiving the Tait proposal, KCATA has not been able to identify any companies in the United States that can meet the Buy America requirements for its project.

FTA also conducted a scouting search for comparable radio system through its Interagency Agreement with the U.S. Department of Commerce’s National Institute of Standards and Technology (NIST). The scouting search identified no domestic manufacturers as matches for this opportunity. The scouting search identified one domestic manufacturer as a partial match, but that manufacturer does not currently manufacture a comparable radio system. As such, KCATA is pursuing its non-availability waiver applications.

The purpose of this notice is to publish KCATA’s request and seek public comment from all interested parties in accordance with 49 U.S.C. 5323(j)(3)(A). Comments will help FTA understand completely the facts surrounding the request, including the effects of a potential waiver and the merits of the request. A full copy of the request has been placed in docket number FTA-2016-0002.

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